

CITIZENS TASK FORCE
November 7, 2002 AGENDA
100 Australian Avenue
4th Floor Conference Room, 2:00 p.m.



A) Call to Order/ Convene as the Citizens Task Force

- 1) Roll Call
- 2) Additions, substitutions, and deletions
- 3) Motion to adopt agenda
- 4) Excused absences

B) ULDC Amendments

- 1) Traffic Performance Standards (TPS) Amendments

C) Convene as the Land Development Regulations Commission

- 1) Proof of Publication
- 2) Consistency Determinations

D) Board Member Comments

F) Staff Comments

G) Adjourn

MEMORANDUM

TO: D. J. Snapp, III, Chair, and
Members of the Citizens Task Force

FROM: Aimee Craig Carlson, AICP, Senior Planner
Zoning Division

DATE: October 29, 2002

RE: **November 7, 2002 Citizens Task Force (CTF) Meeting**

Enclosed are the agenda and supporting materials to assist you in preparing for the CTF meeting on **Thursday, November 7, 2002**, at 2:00 p.m. The meeting will take place in the 4th Floor Conference Room, PZB, 100 Australian Avenue, West Palm Beach, Florida.

This meeting is a continuation of the October 3, 2002 CTF/LDRC meeting. During the October 3rd meeting, the CTF discussed and recommended changes to the definition of a "project" before forward the language to its TPS subcommittee for further consideration. The TPS subcommittee met twice and has recommended approval of the proposed language. Minutes from both subcommittee meetings as well as an explanatory memorandum from D.J. Snapp, CTF Chair, are included in the packet.

The CTF will sit as the Land Development Regulation Commission and review the proposed project definition for consistency with the 1989 Palm Beach County Comprehensive Plan.

Please bring the enclosed meeting materials with you. If you have specific questions regarding the proposed amendments, please contact me at 233-5342. To confirm your attendance, please contact Paula Prichard at 233-5204.

Enclosures: 11/07 Citizens Task Force Agenda and Packet
TPS Subcommittee Minutes
Memorandum from DJ Snapp, Chair, CTF

cc: Barbara Alterman, Esq., Executive Director, PZ&B
Lenny Berger, Esq., Assistant County Attorney
William C. Whiteford, AICP, Zoning Director
Jon MacGillis, Zoning Administrator

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1 **Project Draft 10/29/02**

2
3 NOTE: The Draft dated 10/29/02 is based on changes recommended by the CTF
4 Subcommittee in its meetings on 10/18/02 and 10/25/02. The underline and strike-
5 through language indicates changes to the draft dated 10/03/02 which was
6 submitted to the full CTF that day. The regulation was also reordered to
7 accommodate substantive changes recommended by the Subcommittee. A
8 relocated provision is followed by brackets indicating its original location. The
9 brackets refer to section and paragraph designations found in draft dated 10/03/02.
10 After the Subcommittee meeting, staff made three minor changes indicated by
11 underline and italics.

12
13
14
15 **Part 1 – Section 15(I) B- Definition** – is hereby amended as follows:

16
17 PROJECT - A land use or group of land uses, or land development activity or
18 activities, or amendment thereto, which require the issuance of a DEVELOPMENT
19 ORDER(s). All Public Civic Sites dedicated as part of a PUD or otherwise
20 obtained by a governmental agency for public use shall be considered a PROJECT
21 separate from the PUD for the purposes of reviewing the traffic impacts of the Civic
22 Sites under this article.

23
24 **Part 2**

25
26 **Section 15(II) PROJECT AGGREGATION**

27 **A. Applicability.** This Subsection concerning PROJECT aggregation shall
28 apply only to a LOT in existence on or after [the effective date the Ordinance
29 creating this Subsection] or to a PROJECT that is subject to a PREVIOUSLY
30 APPROVED DEVELOPMENT ORDER, an AGREEMENT, or both, which is
31 subject to a condition of approval that expressly provides for PROJECT
32 aggregation. This subsection shall not apply to Developments located within a
33 designated Community Redevelopment Area (CRA) or “urban infill” area as defined
34 in section 163.3164, Florida Statutes. **[moved from second half of introductory**
35 **paragraph]**

1 **B. Aggregation Criteria.** Two or more land uses, or group of land uses, or
2 land development activity or activities, or amendment(s) thereto (hereafter
3 “Developments”), which require a DEVELOPMENT ORDER(S), represented by
4 their owners or developers to be separate Developments, shall be aggregated and
5 treated as a single PROJECT when ~~they~~ each of the following criteria in
6 paragraphs (1) through (3) are is met.

7 1. The Developments generate more than 5,000 cumulative daily trips
8 when aggregated.

9 2. The same Person owns or has a significant legal or equitable interest
10 or an option to obtain a significant legal or equitable interest in each Development.
11 A “significant legal or equitable interest” means that the same Person has an
12 interest or an option to obtain an interest of more than 25% in each development for
13 the following types of interests: (1) a fee simple estate; (2) a leasehold estate of
14 more than thirty (30) years’ duration; (3) a life estate, or (4) similar equitable,
15 beneficial or real property interests in the Developments. A lessor’s interest in a
16 lease of more than thirty (30) years is not a significant legal or equitable interest
17 **[formerly (a)1.b.; (a)1.a. has been deleted]**

18 3. The Developments are part of a unified plan of development as
19 evidenced by meeting at least two of the following:

20 a. There is a period of two (2) years or less between the
21 issuance of the first building permit, or issuance of a development
22 order if the first building permit has not been issued, for one
23 development and subsequent traffic concurrency application for
24 another development. This subparagraph shall apply only if any
25 portion of the parcels that contain the Developments: a) presently
26 share a common boundary; or b) previously shared a common
27 boundary or existed as a single parcel within two (2) years from the
28 date the earliest of the Developments received traffic concurrency
29 approval. **[formerly (a)2.]**

30 b. The Developments are physically proximate to one other. Two
31 or more Developments shall be considered “physically proximate”

1 when any portion of two or more Developments is contiguous or
2 separated by a road Right of Way or public canal easement of 140
3 feet or less. **[formerly (b)]**

4 c. A master plan or series of plans or drawings exists covering
5 the Developments sought to be aggregated which have been
6 submitted to a local general-purpose government, South Florida
7 Water Management District, local drainage or improvement special
8 district, the Army Corps of Engineers, the Florida Department of
9 Environmental Protection, or the Division of Florida Land Sales,
10 Condominiums, and Mobile Homes for authorization to commence
11 development. The existence or implementation of a utility's master
12 utility plan required by the Public Service Commission or general-
13 purpose local government or a master drainage plan shall not be the
14 sole determinant of the existence of a master plan which aggregates
15 Developments; or **[formerly (a)3]**

16 d. The voluntary sharing of infrastructure that is indicative of a
17 common development effort or is designated specifically to
18 accommodate the Developments sought to be aggregated, except
19 that which was implemented because it was required by a local
20 general-purpose government, South Florida Water Management
21 District, local drainage or improvement special district, the Army
22 Corps of Engineers, the Department of Environmental Protection, the
23 Division of Florida Land Sales, Condominiums, and Mobile Homes,
24 or the Public Service Commission. "Sharing of infrastructure" means
25 the voluntary joint use by two or more Developments of internal
26 roadways, internal recreational facilities or parks, amenities, or water,
27 sewage or drainage facilities specifically constructed to
28 accommodate the Developments sought to be aggregated. Shared
29 infrastructure does not include:

30 i. Any joint or shared use of private or public infrastructure
31 specifically required under an established policy of general

1 applicability as set forth under a comprehensive plan adopted
2 pursuant to Chapter 163, Florida Statutes, an adopted local
3 government ordinance or resolution, state statute or by
4 adopted rule of regional or state regulatory agencies;

5 ii. Any joint or shared use of public recreational facilities
6 or parks so long as they were not conveyed by a Person with a
7 significant legal or equitable interest in the Developments
8 sought to be aggregated;

9 iii. Any joint or shared use of publicly financed drainage or
10 stormwater management facilities, roadways or water or
11 sewer facilities which were not constructed or financed
12 specifically to accommodate the Developments considered for
13 aggregation; or

14 iv. Design features, financial arrangements, donations, or
15 construction that is specified in and required by an
16 AGREEMENT between the County and two or more
17 Developments;[formerly (a)4]

18 e. There is a common advertising scheme or promotional plan in
19 effect for the Developments sought to be aggregated. “Common
20 advertising scheme or promotional plan” means any depiction,
21 illustration, or announcement which indicates a shared commercial
22 promotion of two or more Developments as components of a single
23 Development and is designed to encourage sales or leases of
24 property. [formerly (a)5]

25 f. The same Person provides common management services to
26 the Developments sought to be aggregated.

27 **C. Exceptions.** This Subsection concerning PROJECT Aggregation is
28 intended to prevent the division of one large PROJECT into several smaller
29 PROJECTS in order to circumvent the purpose of this Article, not to aggregate
30 separate and discrete PROJECTS. Certain activities and circumstances, including

1 the following, shall not be used by the County Engineer to aggregate two or more
2 Developments:

3 1. Activities undertaken leading to the adoption or amendment of any
4 comprehensive plan element described in part II of chapter 163, F.S.

5 2. The sale of unimproved parcels of land, where the seller does not
6 retain significant legal or equitable interest ~~of~~ in the future development of the
7 parcels.

8 3. The fact that the same lender has a financial interest, including one
9 acquired through foreclosure, in two or more parcels, so long as the lender is not an
10 active participant in the planning, management, or development of the parcels in
11 which it has an interest.

12 4. Drainage improvements that are not designed to specifically
13 accommodate the Developments sought to be aggregated.

14 5. Use of the same real estate broker to market and sell two or more
15 Developments.

16 6. Agreements to authorize owners or developers to pool impact fees or
17 impact-fee credits, or to enter into front-end agreements or other financing
18 arrangements by which they collectively agree to design, finance, donate, or build
19 such public infrastructure, facilities, or services.

20 7. Nothing herein shall prevent the development of a portion of a parcel
21 owned by one Person where no unified plan of development for the remainder of the
22 parcel, or portion thereof, is evidenced. **[formerly (c)1-7]**

23 **D. Procedure.**

24 1. In order to aggregate two or more Developments pursuant to this
25 subsection, the County Engineer shall provide written notice of intent to aggregate.
26 This notice shall be delivered by certified mail to all ~~developers of record of the~~
27 ~~Developments sought to be aggregated~~ affected applicants seeking traffic
28 concurrency approval The notice of intent to aggregate shall: identify the
29 Developments sought to be aggregated; explain the effect of aggregation on the
30 Developments in the event a final determination has been made by the County to
31 aggregate the Developments; and indicate that an affected current owner may

1 appeal the decision of the County Engineer pursuant to **[section 15(I) – I]** of this
2 Code.

3 2. If the County Engineer’s notice of intent to aggregate is not appealed,
4 or if the Traffic Performance Standards Appeals Board, or a court of competent
5 jurisdiction, ultimately affirms the decision of the County Engineer to aggregate, the
6 Developments shall be considered a single PROJECT for the purposes of traffic
7 concurrency. ~~The aggregated Developments~~ Once aggregated, the applicant or
8 applicants seeking traffic concurrency approval shall prepare and submit to the
9 County Engineer a single TRAFFIC IMPACT STUDY that analyzes the aggregated
10 Developments as a single PROJECT. The TRAFFIC IMPACT STUDY shall be
11 subject to the review and procedural standards set forth in **[section 15 (I)]** of this
12 Code. Such review and procedural standards shall not ~~eaffect~~ the terms and
13 conditions of a PREVIOUSLY APPROVED DEVELOPMENT ORDER, or an prior
14 AGREEMENT related to traffic concurrency approval of an aggregated
15 Development. **[formerly (e) and (e)1]**

16 **E.** This Subsection shall be applied only for the purpose of evaluating the traffic
17 impacts of a PROJECT pursuant to the requirements of this Article 15. **[formerly**
18 **(d)]** Nothing contained in this subsection shall affect the calculation and collection
19 of impact fees as set forth in Article 10 of this Code.

20 **F.** The application materials used for Traffic Concurrency approval shall be
21 amended to require an applicant to verify that the Project is not subject to
22 aggregation as set forth in this subsection.

23 **G.** Portions of this subsection concerning aggregation are based on the
24 aggregation regulations for Developments of Regional Impact, codified at section
25 380.0651, Florida Statutes, and Rule 9J-2, Florida Administrative Code. Unless
26 the context clearly indicates otherwise, the terms used in this subsection shall have
27 the same meaning and application as those terms that are provided for in the state
28 regulations.

29
30

**TABLE 32A-1
TEST ONE
LEVELS OF SIGNIFICANCE**

Distance/Facility	<= 0.5 miles*	> 0.5 miles (except I-95/ Turnpike I-95 and the Turnpike)	
Significance Level	0.5% LOS D	1.0% LOS D	5% LOS D

~~* Links within one-half (0.5) miles of a Project must be evaluated, regardless of significance, where:~~

- ~~— 1) the Project is located outside of the Urban Service Area, or~~
- ~~— 2) the ADT at Buildout will exceed 110% LOS D, or~~
- ~~— 3) the subject link is a designated hurricane evacuation route.~~



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Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
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MEMORANDUM

TO: Members of the Citizens Task Force
FROM: D.J. Snapp, III, Chair, Citizens Task Force 
DATE: October 29, 2002
RE: Project Aggregation Rule for TPS

The CTF Traffic Performance Standards Subcommittee met on October 18th and 25th to refine the proposed project aggregation regulations. After our meeting on the 25th, the subcommittee voted to forward the regulations to the full CTF, with our recommendation for approval.

As currently drafted, two or more projects can be aggregated only when the each of the following criteria are met. First, the project must generate at least 5,000 daily trips when aggregated. Second, there must be common ownership in the developments. Finally, the projects must have unified plan of development. In order for the County to determine that there is a unified plan of development, there must be evidence of at least two of the following: 1) a period of two years or less between the issuance of the first building permit for one development and subsequent traffic concurrency application for another development; 2) the developments are physically proximate to each other; 3) a master plan or series of drawings covering the projects; 4) voluntary sharing of infrastructure indicative of a common development effort; 5) common advertising scheme or promotional plan for the developments; and 6) common management services provided to the developments.

Once aggregated, the development(s) seeking concurrency approval would have to include in their study traffic counts from the aggregated projects. Project aggregation does not affect the terms and conditions of previously approved projects.

There is, of course, a far greater level of detail and specificity in the regulation itself, but I thought it would be helpful to the full CTF to receive this brief overview along with the document in advance of the meeting November 7th.

cc: Barbara Alterman, Esq., Executive Director, PZ&B
Lenny Berger, Esq., Assistant County Attorney
William C. Whiteford, AICP, Zoning Director
Jon MacGillis, Zoning Administrator
Almee Craig Carlson, AICP, Senior Planner
TPS & CTF Interested Parties

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Citizens Task Force Subcommittee for Traffic Performance Standards

Minutes October 18, 2002

Members present:

Bruce Kaleita
Rosa Durando

Staff present:

Bruce Thomson
Ed Fernandez
Lenny Berger

The CTF Subcommittee convened October 18, 2002 at 9:30 to discuss the project aggregation provisions of the Traffic Performance Standards Ordinance. The subcommittee members present reviewed all of the provisions submitted to the CTF on October 3, 2002, and agreed to the changes indicated below. Page and line numbers refer to the draft dated October 3, 2002.

1. **Page 5, line 1-2.** Add language to subsection 2(d) clarifying that nothing in the aggregation rule would alter the means of calculating and collecting impact fees provided for in Article 10 of the ULDC.
2. **Page 5, line 19.** Amend subsection 2(e) by replacing language requiring aggregated developments submit a single study with language requiring the applicant or applicants seeking traffic concurrency approval to submit a single study. The purpose of this change is to ensure that previously approved developments would not be required to submit another traffic study in the event of aggregation.
3. **Page 5, line 23.** Amend sentence beginning at this line to read: Such review and procedural standards shall not affect the terms and conditions of a PREVIOUSLY APPROVED DEVELOPMENT ORDER, or a prior AGREEMENT related traffic concurrency approval of an aggregated DEVELOPMENT.
4. Add language indicating that as part of the traffic concurrency application process, the applicant states that the proposed project is not subject to aggregation.
5. Add language indicating that terms borrowed from Florida Statute and Administrative Rule shall have the meaning for the purposes of the County aggregation rule.

Ms. Durando wished to remove subsection (c)7, which provides: "Nothing herein shall prevent the development of a portion of a parcel owned by one Person where no unified plan of development for the remainder of the parcel, or portion thereof, is evidenced." Mr. Kaleita indicated his desire to leave this provision in the regulation. Both indicated that they would be willing to forward the aggregation rule to the full CTF, subject to the changes indicated above. The subcommittee is scheduled to meet Friday, October 25 at 1:00 p.m. in the PZB 4th floor conference room to review language changes based on the comments above. The meeting was adjourned at approximately 11:40 a.m.

Citizens Task Force Subcommittee for Traffic Performance Standards

Minutes October 25, 2002

Members present:

Bruce Kaleita
DJ Snapp
Carmela Starace

Staff present:

Bruce Thomson
Lenny Berger
Dan Weisberg

The CTF Subcommittee for Traffic Performance Standards convened October 25, 2002 at 1:00 p.m. to discuss proposed regulations concerning project aggregation. The changes to the rule based on the October 18th Subcommittee meeting were approved as submitted. The Subcommittee agreed to additional changes to the criteria used in determining whether a project may be aggregated:

1. Require common ownership, as currently defined in the draft rule, as stand-alone criteria that must be met in order to aggregate two or more projects.
2. Add: 1) “common management services”; 2) the two year time period between development activities; and 3) physical proximity, as defined in the draft rule, to the remaining set of three criteria used to determine whether a unified plan of development exists. Require that two of the six criteria need be met in order to find that a unified plan of development exists.

As revised by the Subcommittee, the Aggregation Rule, in sum, would apply only when each of the following criteria are met: 1) generate at least 5,000 daily trips when aggregated; 2) common ownership in the developments; and 3) a unified plan of development, as that term is defined in the draft rule. A finding of aggregation by the County Engineer may be appealed to the Traffic Performance Standards Appeals Board. Once aggregated, the development(s) seeking concurrency approval would have to include in their study traffic counts from the aggregated projects. Project aggregation does not affect the terms and conditions of previously approved projects.

The Subcommittee voted to forward the aggregation provisions as amended to the full CTF with its recommendation for approval. The meeting was adjourned at approximately 3:00 p.m.

An introductory note to the most recent draft follows.

Introductory Note

The Draft dated 10/29/02 is based on changes recommended by the CTF Subcommittee in its meetings on 10/18/02 and 10/25/02. The underline and strike-through language indicates changes to the draft dated 10/03/02 which was submitted to the full CTF that day. The regulation was also reordered to accommodate substantive changes recommended by the Subcommittee. A relocated provision is followed by brackets indicating its original location. The brackets refer to section and paragraph designations found in draft dated 10/03/02. After the Subcommittee meeting, staff made three minor changes indicated by underline and italics.